

UNITED ESTATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HILLAIR CAPITAL INVESTMENTS, L.P.,

Plaintiff,

INTEGRATED FREIGHT CORPORATION,
SMITH SYSTEMS TRANSPORT, INC.,
MORRIS TRANSPORT, INC., CROSS CREEK
TRUCKING, INC., PAUL HENLEY,
HENRY P. HOFFMAN AND MATTHEW A. VEAL,

Defendants.
-----X

Index No.: 12 CIV 7164

**VERIFIED
ANSWER OF DEFENDANTS**

Defendants, INTEGRATED FREIGHT CORPORATION, SMITH SYSTEMS
TRANSPORT, INC., MORRIS TRANSPORT, INC., CROSS CREEK TRUCKING, INC., PAUL
HENLEY, HENRY P. HOFFMAN and MATTHEW A. VEAL, by and through their attorneys,
LEDWITH & ATKINSON, answering the Complaint of the plaintiff herein, allege and show the
Court as follows:

1. Admit to each and every allegation contained in the paragraph of the plaintiff's
Complaint numbered 3, 18, 19, 20, 21.
2. Denies each and every allegation contained in the paragraphs of plaintiff's Complaint
numbered 17, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,
41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63,
64, 65, 66, 67, 68, 69, 70 and 71.
3. Denies any knowledge or information thereof sufficient to form a belief as to each
and every allegation contained in the paragraphs of plaintiff's Complaint numbered
1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

LIQUIDATED DAMAGES

4. Liquidated damages provisions must bear a reasonable relation to actual damages or it is penal in nature and void as a matter of law. The liquidated damages set forth by plaintiff are void as a matter of law.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. The plaintiff has failed to state a claim.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Plaintiff's claims are barred by the doctrines of waiver and/or estoppel.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

7. Plaintiff's claims are barred by laches.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

8. Defendant reserves the right to add any additional defenses during discovery or at any other point up to and including the time of trial.

AS AND A SIXTH AFFIRMATIVE DEFENSE

9. PAUL HENLEY, HENRY P. HOFFMAN and MATTHEW A. VEAL acted within the scope of their employment in this matter. The Business Judgment Rule applies to their defense.

WHEREFORE, the defendants demand judgment as follows:

- A. Dismissing the Complaint of the plaintiff in its entirety.
- B. For its costs and costs and disbursements in this action, including reasonable attorney's fees; and
- C. For such other and further relief as this Court deems just, proper and equitable.

Dated: Lynbrook, New York
January 4, 2013

Yours, etc.



THOMAS D. ATKINSON (TDA- 6588)
LEDWITH & ATKINSON
Attorneys for Defendants
INTEGRATED FREIGHT CORPORATION,
SMITH SYSTEMS TRANSPORT, INC.,
MORRIS TRANSPORT, INC., CROSS
CREEK TRUCKING, INC., PAUL HENLEY,
HENRY P. HOFFMAN
and MATTHEW A. VEAL
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516-593-1771
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TO: TED PORETZ (TP-5387)
ELLENOFF, GROSSMAN & SCHOLE, LLP
Attorneys for Plaintiff
HILLAIR CAPITAL INVESTMENTS, L.P.
150 East 42nd Street, 11th Floor
New York, New York 10017
(212) 370-1300

STATE OF NEW YORK)

ss.:

COUNTY OF NASSAU)

I, the undersigned, an attorney admitted to practice in the courts of New York State, state that I am THOMAS D. ATKINSON, the attorney of record for defendants INTEGRATED FREIGHT CORPORATION, SMITH SYSTEMS TRANSPORT, INC., MORRIS TRANSPORT, INC., CROSS CREEK TRUCKING, INC., PAUL HENLEY, HENRY P. HOFFMAN and MATTHEW A. VEAL in the within action; I have read the foregoing DEFENDANTS' VERIFIED ANSWER and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe it to be true. The reason this verification is made by me and not by defendant is that defendant does not reside within the county wherein your deponent maintains his office. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: information and data in attorney's file. I affirm that the foregoing statements are true, under the penalties of perjury.

DATED: Lynbrook, New York
January 4, 2013

A handwritten signature in dark ink, appearing to read 'T. D. Atkinson', written over a horizontal line.

THOMAS D. ATKINSON

UNITED ESTATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INTEGRATED FREIGHT CORPORATION,
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Pursuant to 22 NYCRR 130-131.-a, the undersigned, an attorney admitted to practice in the Courts of New York State, certifies that, upon information and belief, and after reasonable inquiry, the contentions contained in the annexed documents are not frivolous

Dated: Lynbrook, New York
January 4, 2013



THOMAS D. ATKINSON
LEDWITH & ATKINSON
Attorney for Defendants
INTEGRATED FREIGHT CORPORATION,
SMITH SYSTEMS TRANSPORT, INC.,
MORRIS TRANSPORT, INC., CROSS CREEK
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